

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.22048 of 1999

Dated: 28-06-2007

Between:

Sri Venkateswara Rice & Flour Mills,
rep. by its Proprietor P. Pullaiah,
r/o Zillella village,
Gosapadu Mandal,
Kurnool District.

... Petitioner

and

1. The Superintending Engineer, Assessment,
Cuddapah and 5 others.

... Respondents

ORDER:

Petitioner, a proprietary concern, filed this writ petition seeking a *mandamus* to declare the proceedings, dated 20-04-1999 passed by first respondent – Superintending Engineer, as confirmed by an order of second respondent – Chief Engineer passed in Appeal No.A-146-KNL,

as arbitrary and illegal and consequently direct respondents to continue the power supply to petitioner's Mill.

2. It is the case of petitioner, a Rice and Flour Mill, that it has been running after installing machinery i.e. 7½ H.P. for shelling the paddy, 10 HP for polishing the raw-rice and 15 HP for high polishing the rice, after taking the electricity connection from respondents, since March, 1994. While so, on 09-03-1999 respondents 3 and 4 inspected the Rice Mill and noticed that there was pilferage of energy and as such third respondent provisionally estimated the loss sustained by the Board at Rs.4,82,296/- and served a notice through L.R.No.171, dated 12-03-1999. Later, first respondent – Superintending Engineer served a notice vide Lr.No.606, dated 01-04-1999 to show cause why the loss suffered by the Board on account of pilferage in use of energy should not be estimated at Rs.4,82,296/- and recovered from it. To the said notice, even though it has filed objections within the time on various grounds, first respondent, without properly considering the said objections passed an order on 20-04-1999 and revised the assessment by fixing the same at Rs.2,55,522-70 ps. Questioning the said order, it has filed an appeal before second respondent – Chief Engineer and second respondent passed an order in Appeal No.A.146-99-KNL by calculating the revised assessment at Rs.2,15,987/-. Assailing the said orders, the present writ petition has been filed.

2. Heard learned counsel for the parties.

3. According to learned counsel for petitioner, the mode of assessment made by the officials is not correct as the authorities have taken into consideration the total load of all the three machines located

in the rice mill and thus contended that the said figure arrived at by the authorities is not in accordance with law.

4. A counter affidavit is filed on behalf of respondents stating that at every stage the authorities have given proper and sufficient opportunity to petitioner and it is only after considering the objections raised by petitioner and also after applying the rules in force, the said assessment orders have been passed and there is absolutely no violation of any rule, regulation or law and hence the writ petition is liable to be dismissed.

5. It is contended by learned Standing Counsel Sri V. Ajay Kumar, appearing for respondents that when once the competent authority applies his mind and passed an order in terms of the rules, which are in force with regard to the unauthorized use of electricity, the said orders are out of the scope of the judicial review under Article 226 of the Constitution of India. In this context, he has drawn my attention to the judgment of the Supreme Court in **JMD ALLOYS LTD., v. BIHAR STATE ELECTRICITY BOARD**^[1].

6. I am totally in agreement with the contention put forth by learned Standing Counsel appearing for respondents. This Court cannot exercise its judicial review and again make an assessment as to what is the pilferage that has been committed by petitioner. Further, it is for the technical people like respondents herein to evaluate and come to a conclusion with regard to the pilferage. If there is any violation in the said evaluation, this Court can definitely interfere, but having perused, this Court is of the view that the authorities have applied the correct mode of assessment and also the connected load.

7. However, having regard to the fact that the said Rice Mill was established as early as in 1994 and the authorities have not found fault with the running of the Rice Mill and it is only during the said period for the first time, the said pilferage was detected, a lenient view may be taken and accordingly, the said amount of Rs.2,15,987/- arrived at by second respondent – Chief Engineer is reduced to Rs.1,50,000/-. The said amount, if not paid, shall be paid within a period of six weeks from the date of receipt of a copy of this order.

8. Accordingly, the writ petition is disposed of. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.28-06-2007

GLV

^[1] 2003(5) SCC 226